Present Status of the Application

The presently pending claims 1-3 stand rejected under 35 U.S.C. 102(e) as being anticipated. For at least the following reasons, it is submitted that this application is already in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Summary of Applicant's Invention

The Applicant's invention is directed to an alignment mark configuration, wherein a spacing between the trench and the alignment is at a range between five to eighty times the width ("d") of the flat spacing between the recesses.

Response to 35 U.S.C. 102 (e) rejection

Claims 1-3 are rejected under 35 U.S.C. 102(e) as Komuro (US 5,949,145).

Applicants respectfully assert that Komuro is legally deficient for the purpose of anticipating claim 1 for at least the reason that Komuro fails to disclose every claimed feature of the present invention. More specifically, Komuro fails to disclose "*....a spacing between the trench and the alignment mark is in a range between about 5d to 80d" as* taught in Claim 1. Komuro discloses in Fig. 12 a semiconductor device comprising slits (alignment marks) 53a, 53b, 54a, 54b, 55a, 55b and trenches 52a, 52b. The Office, however, contends that Komuro teaches the distance between the trenches and the set of slits between 5d and 80d when d is the distance between the individual slits simply based on the relative spacing of the various elements illustrated

illustrated on the schematic diagram of Figure 12. Applicants respectfully draw the attention of the Office to Column 8, line 15 of the Komuor, which discloses the interlayer insulating layer 4 is about 800nm thick. Komuor further discloses in col. 8, line 62-64 that the thickness of the polysilicon layer 10 is about 700nm. As very clearly shown in Figure 6C, the thickness of the insulating layer 4 is at least 4 times that of the polysilicon layer 10, and is not a difference in thickness of only 100nm. In other words, the schematic diagrams of Komuor were not drawn according to scale. Therefore, the assertion that Komuor anticipates the present invention based on the not-to-scaled drawings is unsubstantiated. Withdrawal of the rejection and allowance of the presently pending claim are courteously requested.

CONCLUSION

For at least the foregoing reasons, it is believed that all pending claims 1-3 are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

Respectfully submitted,

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